

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:
Anthony S. Bruttaniti

Chapter 13

Debtor.

Bankruptcy Case No. 19-17707

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

THE UNITED STATES OF AMERICA, on behalf of its agency, the Internal Revenue Service (the "IRS"), moves that the above-captioned debtor's plan be denied confirmation pursuant to 11 U.S.C. §§ 1308(a), 1325(a)(5), 1326, and 1325(a)(9), and Fed. R. Bankr. P. 3015(f) (hereinafter all statutory references are to the Bankruptcy Code unless otherwise stated).

In support thereof, the United States alleges:

1. The debtor filed a bankruptcy petition seeking relief under Chapter 13 on December 10, 2019.
2. The debtor filed a Chapter 13 plan on December 10, 2019.
3. The IRS filed an amended proof of claim for federal taxes on February 26, 2020, setting forth secured claims totaling \$89,857.25 (including pre-petition interest); unsecured priority claims totaling \$47,812.72 (including pre-petition interest); and unsecured general claims (including pre-petition interest) totaling \$26,427.94. A copy of the proof of claim is attached hereto as Exhibit A.
4. The plan should not be confirmed because it does not provide for full payment of the IRS's secured tax claims, plus post-confirmation interest, as required by 11 U.S.C. § 1325(a)(5).

5. The plan should not be confirmed because it does not provide for retention of the IRS's tax lien until the secured claim is paid in full, in violation of 11 U.S.C. § 1325(a)(5).
6. The plan should not be confirmed because the debtor has failed to file a federal tax return as required under 11 U.S.C. §§ 1308(a) and 1325(a)(9). Specifically, the debtor has failed to file his tax return for tax year 2017.
7. The plan should not be confirmed because it is not feasible.

WHEREFORE, the United States respectfully requests that confirmation of the debtor's plan be denied.

Respectfully submitted,

WILLIAM M. McSWAIN
United States Attorney

/s/ Matthew E. K. Howatt
MATTHEW E. K. HOWATT
ANTHONY ST. JOSEPH
Assistant United States Attorneys
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
Tel: 215-861-8335(MH)/8267(ASJ)
Fax: 215-861-8618
Matthew.Howatt@usdoj.gov
Anthony.Stjoseph@usdoj.gov

Dated: August 4, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing
OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN to be served upon
the following by electronically filing with the Bankruptcy Court's CM/ECF system:

Brad J. Sadek
Counsel for debtor

William C. Miller
Chapter 13 Trustee

U.S. Trustee
Office of the U.S. Trustee
Philadelphia, PA

/s/ Matthew E. K. Howatt

MATTHEW E. K. HOWATT
Assistant United States Attorney

Dated: August 4, 2020

EXHIBIT A

Fill in this information to identify the case:

Debtor 1 ANTHONY S. BRUTTANITI

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: EASTERN District of PENNSYLVANIA

Case number 19-17707-MDC

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Department of Treasury - Internal Revenue Service</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Internal Revenue Service</u> Name <u>P.O. Box 7346</u> Number Street <u>Philadelphia PA 19101-7346</u> City State ZIP Code Contact phone <u>1-800-973-0424</u> Contact email _____ Creditor Number: <u>14437804</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) <u>Internal Revenue Service</u> Name <u>P.O. Box 7317</u> Number Street <u>Philadelphia PA 19101-7317</u> City State ZIP Code Contact phone <u>1-800-973-0424</u> Contact email _____
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>2</u> Filed on <u>01/03/2020</u> MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>See Attachment</u>
7. How much is the claim? \$ <u>164,097.91</u>	Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. Taxes _____
9. Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input checked="" type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input checked="" type="checkbox"/> Motor vehicle <input checked="" type="checkbox"/> Other. Describe: <u>*All of debtor(s) right, title and interest to property - 26 U.S.C. §6321.</u> Basis for perfection: <u>See Attachment</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ <u>89,857.25</u> Amount of the claim that is unsecured: \$ <u>74,240.66</u> (The sum of the secured and unsecured amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) <u>5</u> % <input type="checkbox"/> Fixed <input checked="" type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Identify the property: <u>See Attachment</u>

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☐ No ☒ Yes. Check one:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input checked="" type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ 47,812.72
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☒ I am the creditor.
☐ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/25/2020
 MM / DD / YYYY

/s/KEVIN CONNELLY

Signature

Print the name of the person who is completing and signing this claim:

Name	KEVIN	CONNELLY	
	First name	Middle name	Last name
Title	Bankruptcy Specialist		
Company	Internal Revenue Service		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	600 ARCH ST ROOM 5200		
	Number Street		
	PHILADELPHIA	PA	19106
	City	State	ZIP Code
Contact phone	_____	Email	_____

Proof of Claim for Internal Revenue Taxes



Form 410
Attachment

Department of the Treasury/Internal Revenue Service

In the Matter of: ANTHONY S. BRUTTANITI
1432 SOUTH BROAD STREET
PHILADELPHIA, PA 19146

Case Number
19-17707-MDC

Type of Bankruptcy Case
CHAPTER 13

Date of Petition
12/10/2019

Amendment No. 2 to Proof of Claim dated 01/03/2020

The United States has the right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right to setoff against this claim debts owed to this debtor by this or any other federal agency. All rights and is of setoff are preserved and will be asserted to the extent lawful.

This Claim Is Filed Pursuant To 11 U.S.C. Section 1305(a)

Secured Claims		(Notices of Federal tax lien filed under internal revenue laws before petition date)						
Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Penalty to Petition Date	Interest to Petition Date	Notice of Tax Date	Lien Field: Office Location
XXX-XX-6591	INCOME	12/31/2008	12/17/2012	\$343.00	\$3,214.49	\$1,585.81	09/29/2015	Philadelphia Co
XXX-XX-6591	INCOME	12/31/2011	03/11/2013	\$5,354.00	\$2,693.26	\$1,789.97	09/29/2015	Philadelphia Co
XXX-XX-6591	INCOME	12/31/2012	08/26/2013	\$12,648.00	\$3,439.61	\$3,767.76	09/29/2015	Philadelphia Co
XXX-XX-6591	INCOME	12/31/2013	05/04/2015	\$11,415.00	\$6,444.34	\$2,930.19	09/29/2015	Philadelphia Co
XXX-XX-6591	INCOME	12/31/2014	11/23/2015	\$6,620.00	\$1,965.10	\$1,453.47	04/26/2016	Philadelphia Co
XXX-XX-6591	INCOME	12/31/2015	09/19/2016	\$7,785.00	\$1,239.56	\$1,424.33	12/28/2018	Philadelphia Co
XXX-XX-6591	INCOME	12/31/2016	12/25/2017	\$9,214.00	\$3,271.09	\$1,259.27	12/28/2018	Philadelphia Co
				\$53,379.00	\$22,267.45	\$14,210.80		
Total Amount of Secured Claims:							\$89,857.25	

Unsecured Priority Claims		under section 507(a)(8) of the Bankruptcy Code						
Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date			
XXX-XX-6591	INCOME	12/31/2017	1 4-PER RECORDS/DEBTOR	\$14,796.00	\$1,356.07			
XXX-XX-6591	INCOME	12/31/2018	2 1-ESTIMATED-SEE NOTE	\$14,299.00	\$506.65			
XXX-XX-6591	INCOME	12/31/2019		\$16,855.00	\$0.00			
				\$45,950.00	\$1,862.72			
Total Amount of Unsecured Priority Claims:							\$47,812.72	

Unsecured General Claims								
Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date			
XXX-XX-6591	INCOME	12/31/2004	05/04/2009	\$0.00	\$790.64			

Continued from Page 1

<i>Taxpayer ID Number</i>	<i>Kind of Tax</i>	<i>Tax Period</i>	<i>Date Tax Assessed</i>	<i>Tax Due</i>	<i>Interest to Petition Date</i>
XXX-XX-6591	INCOME	12/31/2007	12/15/2008	\$10,521.00	\$6,329.42
XXX-XX-6591	INCOME	12/31/2015	01/02/2017	\$477.00	\$87.26
				\$10,998.00	\$7,207.32

Penalty to date of petition on unsecured priority claims (including interest thereon) \$2,700.05

Penalty to date of petition on unsecured general claims (including interest thereon) \$5,522.57

Total Amount of Unsecured General Claims:

\$26,427.94

1 INFORMATION FROM DEBTOR OR RETURN RECEIVED THAT IS NOT YET ASSESSED. THIS CLAIM MAY BE AMENDED AS NECESSARY UPON ASSESSMENT OF THE LIABILITY OR EXAMINATION OF DEBTOR TAX RETURN.
2 LIABILITY IS ESTIMATED BASED ON AVAILABLE INFORMATION BECAUSE THE RETURN HAS NOT BEEN FILED. THIS CLAIM MAY BE AMENDED AS NECESSARY AFTER THE DEBTOR FILES THE RETURN OR PROVIDES OTHER REQUIRED INFORMATION.

1872

COURT RECORDING DATA

INTERNAL REVENUE SERVICE FACSIMILE FEDERAL TAX LIEN DOCUMENT BANKRUPTCY DOCKET: 19-17707-MDC	Lien Recorded : 04/26/2016 - 00:00AM Recording Number: 020116 UCC Number : Liber : Page :
Area: SMALL BUSINESS/SELF EMPLOYED #2 Lien Unit Phone: (800) 913-6050	IRS Serial Number: 209072716 Lien Recorded : 02/03/2010

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer:

ANTHONY BRUTTANITI & J FITZPATRICK

Residence: 1432 S BROAD ST
PHILA, PA 19146-4808

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/2014	XXX-XX-6591	11/23/2015	12/23/2025	\$7,125.58

Filed at:	Prothonotary Philadelphia County Philadelphia, PA 19107	Total	\$7,125.58
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This notice was prepared and executed at DETROIT, MI
on this, the 18th day of April, 2016.

Authorizing Official: T. MCCALL	Title: REVENUE OFFICER 22-08-1214
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1872

COURT RECORDING DATA

INTERNAL REVENUE SERVICE FACSIMILE FEDERAL TAX LIEN DOCUMENT BANKRUPTCY DOCKET: 19-17707-MDC	Lien Recorded : 09/29/2015 - 00:00AM Recording Number: 020077 UCC Number : Liber : Page :
Area: SMALL BUSINESS/SELF EMPLOYED #2 Lien Unit Phone: (800) 829-3903	IRS Serial Number: 176711115 Lien Recorded : 02/03/2010

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer:

ANTHONY BRUTTANITI & J FITZPATRICK

Residence: 1432 S BROAD ST
PHILA, PA 19146-4808

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/2013	XXX-XX-6591	05/04/2015	06/03/2025	\$15,339.12

Filed at:	Prothonotary Philadelphia County Philadelphia, PA 19107	Total	\$15,339.12
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This notice was prepared and executed at DETROIT, MI
on this, the 16th day of September, 2015.

Authorizing Official: P.A. BELTON	Title: ACS SBSE 22-00-0001
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1872

COURT RECORDING DATA

INTERNAL REVENUE SERVICE FACSIMILE FEDERAL TAX LIEN DOCUMENT BANKRUPTCY DOCKET: 19-17707-MDC	Lien Recorded : 12/28/2018 - 00:00AM Recording Number: 18122018300002 UCC Number : Liber : Page :
Area: SMALL BUSINESS/SELF EMPLOYED #2 Lien Unit Phone: (800) 913-6050	IRS Serial Number: 339706518 Lien Recorded : 02/03/2010

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer:

ANTHONY BRUTTANITI & J FITZPATRICK

Residence: 1432 S BROAD ST
PHILADELPHIA, PA 19146

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/2015	XXX-XX-6591	09/19/2016	10/19/2026	\$8,743.29
1040	12/31/2016	XXX-XX-6591	12/25/2017	01/24/2028	\$10,724.43

Filed at:	Prothonotary Philadelphia County Philadelphia, PA 19107	Total	\$19,467.72
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This notice was prepared and executed at DETROIT, MI
on this, the 18th day of December, 2018.

Authorizing Official: S. MCGUIGAN	Title: ACS SBSE 22-00-0001
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1872

COURT RECORDING DATA

INTERNAL REVENUE SERVICE FACSIMILE FEDERAL TAX LIEN DOCUMENT BANKRUPTCY DOCKET: 19-17707-MDC	Lien Recorded : 09/29/2015 - 00:00AM Recording Number: 020076 UCC Number : Liber : Page :
Area: SMALL BUSINESS/SELF EMPLOYED #2 Lien Unit Phone: (800) 829-3903	IRS Serial Number: 176711015 Lien Recorded : 02/03/2010

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer:

ANTHONY SALVATORE BRUTTANITI

Residence: 1432 S BROAD ST
PHILA, PA 19146-4808

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/2008	XXX-XX-6591	12/17/2012	01/16/2023	\$7,052.11
1040	12/31/2011	XXX-XX-6591	03/11/2013	04/10/2023	\$6,770.77
1040	12/31/2012	XXX-XX-6591	08/26/2013	09/25/2023	\$13,457.28

Filed at:	Prothonotary Philadelphia County Philadelphia, PA 19107	Total	\$27,280.16
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This notice was prepared and executed at DETROIT, MI
on this, the 16th day of September, 2015.

Authorizing Official: P.A. BELTON	Title: ACS SBSE 22-00-0001
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